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10/570,730	12/11/2006	Colin Uebergang	PIZ-10502/00	7286
25006	7590	07/27/2007		
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C			EXAMINER	
PO BOX 7021			SELF, SHELLEY M	
TROY, MI 48007-7021				
			ART UNIT	PAPER NUMBER
			3725	
			MAIL DATE	DELIVERY MODE
			07/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/570,730

Applicant(s)

UEBERGANG, COLIN

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the *wheeled or tracked vehicle* (clm. 2), *track or moving chain* (clm. 4) and *vertical track* (clm. 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 25.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Regarding claims 1-23, the word "means" is preceded by the word(s)

"sensor"

"actuator"

"by means selected"

in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). With regard to the claims, the repeated recitations, "sensor means", "means selected" and "actuator means" render the claims indefinite as it is not clear whether Applicant is invoking 35 U.S.C. 6th paragraph. Examiner suggests, --means for sensing--, --means for actuating--, etc...

With regard to claims 1-23, especially claims 1, 10, 11 and 21-23 the term, "*associated with*" renders the claims indefinite. What is meant by "associated with"? Is such structure operably coupled, connected? Clarification is required.

Claim 3 recites the limitation "*said vehicle*" in line 1. There is insufficient antecedent basis for this limitation in the claim.

With regard to claims 4 and 5, neither the specification nor the drawings provide clear support for a track or moving chain. Additionally it is not clear how the track or moving chain

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interrelates the positively recited elements. Accordingly a clear understanding cannot be gleaned.

With regard to claim 10 it is unclear what is adapted to move along the trunk, i.e., is it the mechanical sensor arm or the actuator means that is adapted to move along the trunk.

Clarification is required.

With regard to claims 13 and 15 it is not clear how the spring interrelates with the rest of the positively recited elements. For example there is no clear mechanical cooperation positively recited between the spring, actuator and the remaining elements. Clarification is required.

With regard to claim 17, "*cutting edges describe in combination a substantially circular cutting edge in plan*" is not clear and therefore a clear understanding cannot be gleaned.

Clarification is required.

With regard to claim 18, the recitation, "may overlap" is indefinite. Do the cutting edges overlap or not?

Examiner notes not all claims have been further treated on the merits, however the claims as presently presented are not deemed allowable and Applicant is required to clarify the claimed invention so as to facilitate a clear understanding of the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6-9, 12, 16-19, and 21-23 as best as can be understood are rejected under 35 U.S.C. 102(e) as being anticipated by Koster et al. (6,729,372). Koster discloses a tree pruning apparatus including an elongate supporting body; a pruning assembly comprising a plurality of jaws (fig. 1), a plurality of blade members (18, 38) overlapping (fig. 1), means for actuating each blade member (fig. 1) and individual sensor means (36) associated with actuator means and operable to dynamically maintain a selected clearance between the trunk and each cutting edge (col. 3, lines 15-20). Examiner notes, Koster roller (36) acts as a "sensor means", further Examiner notes the claimed invention is silent to any structure as it relates to the "individual sensor means".

With regard to claims 6, 8 and 9 as best as can be understood Koster discloses hinged and pivoted jaws.

With regard to claim 7 as best as can be understood Koster discloses wherein one of said jaws is mounted for movement on said elongated body. Examiner notes the opening and closing of said jaws as disclosed by Koster is "mounted for movement".

With regard to claim 12 as best as can be understood Koster discloses actuator means as electric, pneumatic or hydraulic.

With regard to claims 16-19 as best as can be understood, Koster discloses said blade members as arcuate/circular cutting edges (fig. 1) wherein said cutting edges may overlap.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Koster et al. (6,729,372) in view of Raffaello (EP0407322). Koster does not explicitly disclose a vehicle. Raffaello teaches in a similar art, a delimber having pruning assembly, a plurality of blades, an elongated supporting assembly wherein the supporting body/assembly is mounted on a wheeled vehicle for locating the body adjacent to a tree trunk. Because the references are from a similar art and deal with a similar problem, i.e. tree delimbing it would have been obvious at the time of the invention to one having ordinary skill in the art to provide Koster with a wheeled or tracked vehicle as taught by Raffaello so as to efficiently position the supporting body of the pruning assembly adjacent to the tree trunk for delimbing.

Claims 14 and 20 as best as can be understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Koster et al. (6,729,372). Koster does not explicitly disclose a linear blade edge velocity of 1-2.5 m/sec or a relief angle of up to 6°. It would have been obvious to the skilled artisan at the time of the invention to construct Koster having a disclose a linear blade edge velocity of 1-2.5 m/sec or relief angle up to 6°, because where the general conditions of a claim are disclosed in the prior art, discovering or determining the optimum value of a result effective variable involves only routine skill in the art. See *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


/Shelley Self/
Primary Examiner
Art Unit 3725

July 23, 2007